

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

August 15, 2003

GSBCA 16018-RELO

In the Matter of JANET RIGONI

Janet Rigoni, Eagle River, AK, Claimant.

Cynthia R. Blevins, Acting Deputy Director, United States Army Corps of Engineers
Finance Center, Millington, TN, appearing for Department of the Army.

HYATT, Board Judge.

An employee who is transferred in the interest of the Government from one permanent duty station to another, and who discontinues a residence at the old duty station and reports to and establishes a temporary residence at the new duty station, is eligible for payment of the miscellaneous expenses allowance, even if a permanent residence is not established at that location due to a subsequent transfer to yet another permanent duty station.

Background

Claimant, Janet Rigoni, a civilian employee of the United States Army Corps of Engineers, returned from a tour in Korea to her previous duty station, the Transatlantic Programs Center in Winchester, Virginia, in 2002. She transferred to Virginia pursuant to permanent change of station orders that authorized, among other relocation benefits, payment of temporary quarters subsistence expenses and an allowance for miscellaneous expenses. Sometime after her return to Winchester, Ms. Rigoni received and accepted an offer to transfer to Alaska. After staying approximately two months at the Transatlantic Programs Center, during which time claimant did not establish a permanent residence in Virginia, she relocated to Alaska.

It was the policy of the Transatlantic Programs Center that personal mail should not be directed to that office. Ms. Rigoni's claim is for reimbursement of the cost of renting a mailbox to receive personal mail while she was stationed in Winchester. She explains that ordinarily this would be covered by the miscellaneous expenses allowance, but that in her case the Corps has declined to pay a miscellaneous expenses allowance, asserting that she is ineligible to be paid this benefit. The Corps, in responding to Ms. Rigoni's claim, elaborates that it interprets the relevant provision of the Joint Travel Regulations (JTR) to

preclude payment of the allowance in connection with this transfer because Ms. Rigoni "did not establish a new residence in the Winchester area."

Discussion

When agencies transfer employees from one permanent duty station to another, statute and implementing regulations authorize the reimbursement of the employees for relocation expenses. 5 U.S.C. § 5724a (2000); 41 CFR Part 302 (2002). The purpose of the statute is "to help pay the cost of moving to the new place of employment." The statute is designed to authorize payment of expenses "incident to transfer from the old to the new station" so that "employees will not have to incur financial losses when transferred at the request of the Government." S. Rep. No. 89-1357, at 2-4 (1966), reprinted in 1966 U.S.C.C.A.N. 2565-67; Jeffrey R. Jenkins, GSBCA 15339-RELO, 00-2 BCA ¶ 31,066; Paul W. Gard, Jr., GSBCA 15311-RELO, 00-2 BCA ¶ 31,053.

Agencies are required to reimburse employees for some relocation expenses and may, if they wish, reimburse employees for other relocation expenses. Glen P. Hamner, GSBCA 15560-RELO, 01-2 BCA ¶ 31,509; Ross K. Richardson, GSBCA 15286-RELO, 00-2 BCA ¶ 31,131. Included among those expenses an employee is entitled to receive (subject to regulatory constraints) are costs of transportation of the employee and his or her household goods, certain real estate transaction expenses, and an allowance for miscellaneous expenses. Tripp Boone, GSBCA 16023-RELO (June 23, 2003); Jackie Leverette, GSBCA 15614-RELO, 02-1 BCA ¶ 31,825; Riyoji Funai, GSBCA 15452-RELO, 01-1 BCA ¶ 31,342. Both the Federal Travel Regulation (FTR), which implements the statutory authority for payment of the expenses of relocation, and the JTR, which implements and supplements the FTR for civilian employees of the Department of Defense, provide that the miscellaneous expenses allowance must be paid to an employee who is authorized a permanent change of station and who has discontinued and established a residence in connection with that relocation. 41 CFR 302-16.3, 16.4 (2002); JTR C9001.

The Board has explained that:

a miscellaneous expenses allowance is paid to an employee in order to defray various costs associated with discontinuing residence at one location and establishing residence at a new location in connection with a permanent change of station. The allowance is related to expenses that are common to living quarters, furnishings, and household appliances, and to other types of expenses inherent in the relocation of a place of residence.

Samuel G. Baker, GSBCA 15408-RELO, 01-1 BCA ¶ 31,276; accord Troy W. Cavenee, GSBCA 15635-RELO, 02-1 BCA ¶ 31,683; John McAveney, GSBCA 15202-RELO, 00-1 BCA ¶ 30,818. Additionally, the cost of renting a post office box to ensure a constant mailing address for the period between discontinuing the old residence and moving into a new, more permanent residence at the new duty station is appropriately characterized as a miscellaneous expense. Mary Sue Hay, GSBCA 16104-RELO (June 19, 2003); Andrew Fischer, 70 Comp. Gen. 486 (1991). In addition, expenses associated with obtaining temporary quarters at the new official station may be reimbursed under the miscellaneous expenses allowance. John W. Eddy, B-245171 (Mar. 10, 1992) (nonrefundable deposit to hold a unit).

In this case, it is undisputed that Ms. Rigoni was authorized by the Government to relocate from Korea to the Winchester area and that she was issued permanent change of station orders in connection with this relocation. Incident to this relocation action, claimant did in fact discontinue her old residence in Korea and move, albeit temporarily as it turned out, to the Winchester area. The Corps maintains, nonetheless, that she is not eligible for a miscellaneous expenses allowance because she did not "establish a new residence" in Winchester.

In light of the language and purpose of the statute and implementing regulations, as well as the reasoning of the case law pertaining to the payment of this allowance, the interpretation adopted by the agency here is unduly restrictive. Ms. Rigoni in fact moved to Virginia and established a residence there for the period of time she was employed at the Transatlantic Programs Center. This is enough to make her eligible for payment of the allowance for miscellaneous expenses. The regulations, and the decisions interpreting them,

do not restrict payment of the miscellaneous expenses allowance to instances where the employee has established new, permanent quarters. The Corps should pay Ms. Rigoni the appropriate miscellaneous expenses allowance.

CATHERINE B. HYATT
Board Judge